

# ***Gender Imbalance at Birth in China: Dilemma, Causes and Legal Solutions***

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**Abstract:** The gender imbalance has become a major social problem in China. We examine the causes of the dilemma and the corresponding legal responses to this problem from the perspective of the gender imbalance in newborns. This paper starts with the performance and harm of the imbalance of the sex ratio at birth in China and then expounds on the legal basis of dealing with the imbalance of the sex ratio at birth from different angles. Finally, the author expounds on how to adjust the sex ratio of the birth population by law through conception and realization. The study found that in the face of the imbalance of the gender ratio in China, it is necessary to strengthen the formulation of laws and regulations related to the termination of pregnancy and constantly improve the legal protection for women and minority groups. Studying the imbalance of the gender ratio in China is conducive to social equality, diversified development, improvement of social production efficiency, enhancement of people's happiness, and alleviation of family.

**Keywords:** deteriorating security, gender imbalance, sex ratio, termination

## **1. Introduction**

China's gender imbalance has become an essential social issue in today's China, and studying the reasons for the imbalance in China's birth population is an integral part of the study of gender imbalance [1-3]. In today's relevant documents and related studies, the gender imbalance is usually attributed to social problems, such as the traditional Chinese preference for sons and the preferential treatment of men in society. However, after the promulgation of numerous judicial cases and relevant policies and regulations, the gender ratio has changed, which proves that the gender imbalance is not only related to social education but also has an essential relationship with the judicial and legal time on the issue of gender ratio in China. However, these studies have ignored the problem that the gender imbalance in China is not only related to traditional social culture and social concepts but also has a vital connection with legal provisions and jurisprudence. This article will focus on the causes of China's gender imbalance at birth and legal responses to carry out relevant investigations and discussions.

First, this paper will explain the manifestation and harm of the imbalance of gender ratio at birth from three aspects: the damage to family composition, social and occupational choice, and the injury to personality integrity and the development of social gender diversity. Secondly, we will examine the legal basis for dealing with the gender imbalance at birth. First, we will explore the effects of

population policies on the gender imbalance, the impact of regulations on the sex ratio at birth [4], and why these policies are not beneficial. Finally, we will explore how to adjust the sex ratio of the birth population [5] through laws. First, we will discuss how to improve the sex ratio at the medical and legal levels and protect the rights and interests of feminization. Second, we will look at how to improve the legal system of gender education and female protection from a long-term perspective. Only by correctly analyzing the causes of China's gender imbalance can we improve this problem according to the reasons caused by the gender imbalance. To solve the problem, let society be more inclusive, harmonious, and fair direction to develop. Studying the causes of gender imbalance can not only improve the balance of the newborn sex ratio but also improve the quality of the newborn sex ratio to alleviate social gender problems. It is more likely to make society fairer and more inclusive, allow multiple genders to develop together, make society inclusive and harmonious, and enable human rights to be more respected and protected so that more people can choose the life they want. In addition, studying the causes of gender imbalance can also better protect vulnerable groups. Therefore, more attention is paid to the group and voice for the vulnerable groups from a more scientific perspective. Finally, the study of relevant issues can improve China's legal system, enable China to continue to carry out the modernization of the socialist rule of law country, and promote China's legal system to continue to improve the judicial system.

## **2. The Manifestation and Harm of Gender Imbalance at Birth in China**

The first noticeable effect is that the pressure on the marriage market is increasing. With more women in the population, more men face the situation of no family formation [6]. The increase in the female population means that women at the bottom have the right to choose a partner, while men at the bottom have no chance to choose a partner. As a result, some people may choose to marry at an early age, resulting in the decline of family stability. Moreover, men at the bottom of society have no right to choose a partner and thus cheat women through illegal means. This may lead to social instability and lead to social panic [7,8]. According to a Xi'an Jiaotong University study, lower-income people are likelier to have boys [9]. This correlation is obvious, and it may mean that there is a strong preference for boys in low-income groups, and fewer girls are born [10]. In low-income groups, the traditional idea of marriage between men and women is strong, but there are fewer men than women. Marriages are often conducted among similar socioeconomic groups. So we can find that the poorer the place, the more difficult it is for men to get a wife, and the greater the social problems related to marriage may occur. The bigger the social issue, the more it will bring more and more emphasis on the concept of son preference, which will make the gender ratio more and more unbalanced. Ultimately, the problem is that men need wives of the right age to marry, and this poor area may become increasingly deteriorating security, which will cause more and more social problems.

Secondly, this will also lead to limited opportunities for women in employment. Since there are more men in their numbers, they have some inherent advantages in competing for jobs, which will lead to the decline of women's choice status and choice space in the workplace, which may limit women's development in the workplace. According to the relevant research report, the employment rate of men is about 40%, while the employment rate of women is about 27% [11]. That means fewer job opportunities for women. Then, the status of women in society will be increasingly declining, which will cause more and more social dissatisfaction and cause more and more social security problems. In this way, women with an unbalanced gender ratio did not get the benefits brought by the family. Still, they were not paid attention to in the workplace. They could not realize the value of life, which would lead to a further decline in the marriage rate, causing the problem of social aging, and at the same time, due to the social reality that men have more advantages in society when the base is declining. As a result, more parents choose to give birth to boys in the New Year, which further leads to an imbalance in the sex ratio.

In addition, the imbalance of the gender ratio between men and women will also challenge the traditional concept of marriage and family, which will seriously threaten stability. The tradition of marriage has a long history in China. In Chinese history, even laws and regulations initially put women under ten in prison. This deep-rooted traditional concept of mixing men and women of the right age is now broken under the social reality that women's life status is getting lower and lower, and the gender ratio is getting increasingly unbalanced. This also means that the premise of long-term social stability has been shaken to some extent.

All in all, we should pay attention to the problem of gender imbalance, which is not only a social phenomenon but also a serious social problem and a population problem. We must be aware of the seriousness of this problem, be mindful of the long-term nature of this problem, take comprehensive measures to prevent and alleviate the pain of gender imbalance, and bring its consequences under control. And come up with sustainable solutions.

### **3. The Legal Basis to Deal with the Imbalance of Sex Ratio at Birth**

From the family planning policy in 1981 as China's population policy, a couple as long as one child [12], to the implementation of the comprehensive two-child policy in 2015, a couple can get two children, in 2021, China's opening the three seas policy, a couple can have three children. Combined with the development chart of China's male-to-female sex ratio, we can see the effect of population policy on controlling the imbalance of the gender ratio of China's birth population. Since the mid-1980s, China's sex ratio at birth has deviated from the average value and continued to rise [13], reaching a peak of 121.18 in 2004 and declining slightly after 2008. In 2015, the National Health and Family Planning Commission pointed out that China has the most severe, longest-lasting, and most populous gender imbalance in the world. The sex ratio at birth in China was 110.14 in 2019 and 108.3 in 2021 [14,15]. Since the implementation of the family planning policy, due to the preference for sons caused by traditional concepts, parents usually choose to keep only one child if they can only choose one child, and the abnormal sex ratio caused by only one boy has since then, with the development of social technology and culture as well as the continuous improvement of the legal system, there has been a decline in the phenomenon of the opening of the two-child policy after 2000 years. Many parents also choose the sex of their second child. Most parents choose to have a boy when they can have a second child, thus again leading to a gender imbalance. From this, we can see that the effect of population-related policies on adjusting the sex ratio of male-to-female births in China is very tiny [16].

The reason for the imbalance of the sex ratio at birth is also that the laws and regulations aimed at the inequality of the sex ratio at birth in the judicial system have little effect. Causes of gender imbalance. It is essential to point out that there are illegal determinations of fetal sex and artificial illicit termination of pregnancy in society. China's laws and regulations on the unlawful decision of fetal sex and artificial illicit termination of pregnancy are contained in the Maternal and Child Health Law and the Population and Family Planning Law [4]. But this phenomenon still exists in society. According to the report, there are 13 million induced abortions in China every year, and the repeat abortion rate is about 55.9 percent. This means that the mother can repeatedly abort several of her children to select the sex of the fetus. Such groups are huge in China, with an average of one in 28 women having an abortion. In the Law on Maternal and Child Health Care, the second point of article 322 states that "the use of technical means to determine the sex of the fetus is strictly prohibited unless there is a real medical need." [17] But that's not in the law—the consequences of detailed legal decisions on using technical means to determine the sex of fetuses. In Article 40 of the Population and Family Planning Law, it is mentioned that anyone who illegally performs family planning operations for others or uses ultrasound or other technical means to determine the sex of the fetus for others that is not medically necessary or artificially terminates pregnancy by selecting the sex shall

be punished by giving a warning and confiscating the illegal gains, and shall be investigated for criminal responsibility according to the law if the case constitutes a crime [18]. This means that society is less punitive when dealing with gender discrimination laws. It did. As the criminal cost of identifying a baby's sex is lower, more people will spend money to determine the baby's sex, satisfying their traditional preference for sons over daughters. Second, identifying fetal gender evidence is relatively tricky because this matter has a strong concealment, in most cases, after the medical identification if the illegal information can be orally informed. As a result, having direct evidence to prove fetal illicit title is challenging, so it is difficult to judge criminal fetal label. In the end, all the law says about sex determination is that. As for the apparent punishment for the illegal identification of the sex of the fetus, the person who conducted the title of the sex of the fetus was not given education and education. This is not a cure for social development, and it deviates from teaching the concept of equality between men and women. Therefore, after a case comes out, there is no solid social representation and strong influence on society, and similar topics will continue to occur, resulting in social tragedy and social problems.

#### **4. How to Adjust the Sex Ratio at Birth by Law**

The problem that can be solved directly is strengthening the control of illegal medical practice. Here, let's govern from the teachings and the law. First, the concept of gender equality should be popularized by the whole society. To let illegal practitioners know that they are destroying the balance between men and women in the process of practicing illegal medicine is to make the organization develop in a more intolerant direction, thus reducing some crime rates. Secondly, for unlawful medical practice itself, after termination of pregnancy, the health committee should investigate the reasons for termination. Suppose the fetal pregnancy is terminated due to the young mother's age or the fetus has congenital problems. In that case, a detailed investigation should be carried out on the reasons for life. There can be explicit legal punitive norms for illegal acts of artificial termination of pregnancy, such as a sentence of several years in prison, and the relevant cases should be publicized to let society know that the gender selection of the fetus will cause a significant negative social impact. Suppose it is found that it is caused by the preference for sons over daughters. In that case, The family should be severely punished, not only for illegal gains but also for administrative detention, to avoid the traditional preference for sons over daughters effectively and to indoctrinate the family's ideology.

Second, the legal system can be improved to criminalize sex determination for terminating a pregnancy. There are explicit legal provisions for abortion, and it is necessary to construct the abortion bill legally. The termination of pregnancy caused by gender should be criminalized. Their illegal gains will be confiscated, and criminal judgment will be given. Under severe social punishment and high criminal costs, it can effectively reduce the number of pregnancies caused by gender equality to enhance social fairness. Ease the imbalance between men and women in society.

The last and most fundamental way to alleviate the imbalance of the gender ratio is to improve the legal system of gender education and female protection. The root cause of the inequality of gender ratio is that women have a relatively low social status today. In China, where traditional feudal ideas are prevalent, son preference is deeply rooted in people's opinions. Strengthening social education for gender equality can reduce gender imbalance, reducing social tragedy. More protection and security should be given to women so they can have more freedom of choice in their workplace life and have higher social benefits and social security in their social life. The social status of women has increased. The idea of equality between men and women has been widely spread, and the concept of son preference will naturally disappear; society will naturally develop in a more diverse and inclusive direction, and the gender ratio will be more and more balanced. Social productive forces will improve increasingly, socialization will continue to progress, and the construction of a socialist legal system will continue to improve.

## 5. Conclusion

The imbalance of the male and female ratio has a high social harm, which may cause the cracking of the traditional family model. The position of women in the workplace is increasingly weakened, and the proportion of men who cannot form a family is increasing, which leads to more social problems.

The control of the imbalance between the male and female ratio in China can start with regulating the sex ratio of the birth population. In handling the birth population, society can be educated and popularized, the illegal termination of pregnancy can be criminalized, and in the long run, the legal system of gender education and female protection needs to be improved. Mediation of the gender imbalance of China's birth population is conducive to adjusting the gender imbalance of China's people to make the society develop in a fairer direction, make the family and marriage develop in a more stable order, make the social security develop in a more secure direction, and make the society grow in a more open and inclusive approach. We need to pay attention to laws and regulations related to gender imbalance at birth. We will continue to build a legal protection system for women's rights and interests and constantly improve the dissemination of gender equality.

## References

- [1] Maganioti, A.E., Chrissanthi, H.D., Charalabos, P.C., Andreas, R.D., George, P.N. and Christos, C.N. (2010) Cointegration of Event-Related Potential (ERP) Signals in Experiments with Different Electromagnetic Field (EMF) Conditions. *Health*, 2, 400-406.
- [2] Botorabi, F., Haapasalo, J., Smith, E., Haapasalo, H. and Parkkila, S. (2011) Carbonic Anhydrase VII—A Potential Prognostic Marker in Gliomas. *Health*, 3, 6-12.
- [3] Glendinning, I. (2013). Comparison of policies for Academic Integrity in Higher Education across the European Union. Retrieved from <http://ketlib.lib.unipi.gr/xmlui/bitstream/handle%20European%20Union.pdf?sequence=2>
- [4] Yu S. Theoretical thinking of group cooperative learning model and its implications for college English teaching[C]//Research Institute of Management Science and Industrial Engineering.Proceedings of 2017 3rd International Conference on Economy,Management and Education Technology(ICEMET 2017).Francis Academic Press,2017:176-180.
- [5] Stephan Klasen, Claudia Wink. ““MISSING WOMEN”: REVISITING THE DEBATE”, *Feminist Economics*, 2003.
- [6] Ryan Schacht, Karen L. Kramer, *PLoS One*. 2016; 11(8): e0160320. Published online 2016 Aug 24. doi: 10.1371/journal.pone.0160320,PMCID: PMC4996529PMID: 27556401.
- [7] Kokko H, Jennions MD (2008) Parental investment, sexual selection and sex ratios. *Journal of Evolutionary Biology* 21: 919–948. 10.1111/j.1420-9101.2008.01540.x [PubMed] [CrossRef] [Google Scholar].
- [8] Schacht R, Borgerhoff Mulder M (2015) Sex Ratio Effects on Reproductive Strategies in Humans. *Royal Society Open Science* 2. [PMC free article] [PubMed] [Google Scholar].
- [9] Yang Shucai, Jiang Quanbao. The Gender Structure of Children and Female Reproduction: An Analysis Based on the Progressive Fertility Rate of Children's Gender [J]. *Population and Economy*, 2021 (02): 27-44.
- [10] Hudson VM, den Boer A (2004) *Bare Branches: The Security Implications of Asia's Surplus Male Population*. Cambridge, Mass: The MIT Press. [Google Scholar].
- [11] Main Data of the Fourth Survey on the Social Status of Chinese Women [N]. *China Women's Daily*, 2021-12-27 (4).
- [12] Barbara A. Anderson, Brian D. Silver. “Ethnic Differences in Fertility and Sex Ratios at Birth in China: Evidence from Xinjiang”, *Population Studies*, 1995.
- [13] Bretag T. A Research Agenda for Academic Integrity[M].Edward Elgar Publishing:2020-06-26.
- [14] National Development Office: Decline in Gender Ratio of Birth Population during the 13th Five Year Plan Period - China News Network. China News Network [citation date: December 12, 2020].
- [15] Yang Ge. Population Changes and Major “Transformations” during the 14th Five Year Plan period in China [J]. *Journal of Beijing University of Technology (Social Sciences Edition)*, 2021,21 (01): 17-29 .
- [16] F Festini. “Twenty five years of the one child family policy in China”, *Journal of Epidemiology & Community Health*, 2004.
- [17] Jiajian Chen, Zhenming Xie, Hongyan Liu. “Son preference, use of maternal health care, and infant mortality in rural China, 1989–2000”, *Population Studies*, 2007.
- [18] CHINA NET, Civil Air Defense Law of the People's Republic of China, CHINA.ORG.CN , 202nd Meeting of the Standing Committee of the Eighth National People's Congress on October 29, 1996.